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IN THE SENATE OF THE UNITED STATES.

MARCH 30, 1869.

Referred, with the amendment of the House of Representatives, to the Committee on the Judiciary, and ordered to be printed.

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AN ACT

To amend the judicial system of the United States.

1       *Be it enacted by the Senate and House of Representa*  
2   *tives of the United States of America in Congress assembled,*  
3   That the Supreme Court of the United States shall hereafter  
4   consist of the Chief Justice of the United States and eight  
5   associate justices, any six of whom shall constitute a quo-  
6   rum; and for this purpose there shall be appointed an addi-  
7   tional associate justice of said court.

1       SEC. 2. *And be it further enacted,* That for each of the  
2   nine existing judicial circuits there shall be appointed a circuit  
3   judge, who shall reside in his circuit, and shall possess the  
4   same power and jurisdiction therein as the justice of the  
5   Supreme Court allotted to the circuit. The circuit courts in  
6   each circuit shall be held by the justice of the Supreme  
7   Court allotted to the circuit, or by the circuit judge of the cir-  
8   cuit, or by the district judge of the district sitting alone, or by

9 the justice of the Supreme Court and circuit judges sitting together,  
 10 in which case the justice of the Supreme Court shall preside,  
 11 or in the absence of either of them by the other (who shall  
 12 preside) and the district judge. And such courts may be held  
 13 at the same time in the different districts of the same circuit ;  
 14 and more than one such court, by direction of the presiding  
 15 justice or judge, who shall designate the business to be done  
 16 in each may be held at the same time in the same district.  
 17 The circuit judges shall each receive an annual salary of five  
 18 thousand dollars.

1        SEC. 3. *And be it further enacted,* That nothing in this  
 2 act shall affect the powers of the justices of the Supreme Court  
 3 as judges of the circuit court.

1        SEC. 4. *And be it further enacted,* That it shall be the  
 2 duty of each justice of the Supreme Court to attend at least  
 3 one term of the circuit court in each district of his circuit  
 4 during every period of two years.

1        SEC. 5. *And be it further enacted,* That the clerks of  
 2 the circuit court shall be appointed by the circuit judges  
 3 respectively, and the clerks of the district courts by the dis-  
 4 trict judges respectively: *Provided,* That the present clerks  
 5 of said courts shall continue in office till other appointments  
 6 be made in their place, or they be otherwise removed.

Passed the Senate March 23, 1869.

Attest :

GEO. C. GORHAM, *Secretary.*

## IN THE HOUSE OF REPRESENTATIVES.

MARCH 29, 1869.

*Resolved*, That the bill from the Senate (No. 44) entitled "An act to amend the judicial system of the United States" do pass with the following

**AMENDMENT.**

Strike out all after the enacting clause and insert the following:

1 *That the Supreme Court of the United States shall hereafter*  
 2 *consist of the Chief Justice of the United States and eight*  
 3 *acting associate justices, any six of whom shall constitute a*  
 4 *quorum, and of such justices of said court as shall have been*  
 5 *excused and retired from active duty under the provisions of*  
 6 *this act. For the purposes of this act there shall be appointed*  
 7 *an additional associate justice of said court.*

1     SEC. 2. *And be it further enacted, That for each of*  
 2 *the nine existing judicial circuits there shall be appointed*  
 3 *a circuit judge, who shall reside in his circuit, and shall pos-*  
 4 *sess the same power and jurisdiction therein as the justice of*  
 5 *the Supreme Court allotted to the circuit. The circuit courts*  
 6 *in each circuit shall be held by the justice of the Supreme Court*  
 7 *allotted to the circuit, or by the circuit judge of the circuit, or*  
 8 *by the district judge of the district sitting alone, or by the*  
 9 *justice of the Supreme Court and circuit judge sitting together,*  
 10 *in which case the justice of the Supreme Court shall preside,*

11 *or in the absence of either of them by the other (who shall*  
 12 *preside) and the district judge. And such courts may be*  
 13 *held at the same time in the different districts of the same cir-*  
 14 *cuit, and more than one such court may be held at the same*  
 15 *time in the same district by direction of the presiding justice*  
 16 *or judge, who shall designate the business to be done in each:*  
 17 *Provided, That no officers shall be allowed fees for attend-*  
 18 *ance upon or services in more than one of said courts at the*  
 19 *same time. The circuit judges shall each receive an annual*  
 20 *salary of five thousand dollars.*

1       SEC. 3. *And be it further enacted, That nothing in*  
 2 *this act shall affect the powers of the justices of the Supreme*  
 3 *Court as judges of the circuit courts, except in the appoint-*  
 4 *ment of clerks of the circuit courts, which in each circuit*  
 5 *shall be appointed by the circuit judge of that circuit, and*  
 6 *the clerks of the district courts shall be appointed by the*  
 7 *judges thereof respectively: Provided, That the present*  
 8 *clerks of said court shall continue in office till other appoint-*  
 9 *ments be made in their place or they be otherwise removed.*

1       SEC. 4. *And be it further enacted, That it shall be the*  
 2 *duty of the Chief Justice, and of each justice of the Su-*  
 3 *preme Court who shall not have been excused and retired*  
 4 *under the provisions of this act, to attend at least one term*  
 5 *of the circuit court in each district of his circuit during every*  
 6 *period of two years.*

1        SEC. 5. *And be it further enacted, That any judge*  
 2 *of any court of the United States who is now seventy*  
 3 *years of age, and any judge thereof who shall hereafter*  
 4 *become seventy years of age, and who shall have served*  
 5 *at least ten years as such judge, may, upon his filing*  
 6 *with the President a certificate of that fact, be excused*  
 7 *and retired from active service as such judge ; and there-*  
 8 *after he shall, during the time he shall continue to hold*  
 9 *said office, be entitled to receive from the United States the*  
 10 *same salary that he was by law entitled to at the time of filing*  
 11 *his certificate : Provided, That if any judge who shall have*  
 12 *attained the aforesaid age shall be incompetent by reason of*  
 13 *disease or infirmity to make and file such certificate, the facts*  
 14 *of his age and incompetency may be proved by satisfactory*  
 15 *evidence before any justice of the Supreme Court, and upon*  
 16 *such justice filing his certificate of such facts with the Presi-*  
 17 *dent, the said judge shall thereupon be excused and retired with*  
 18 *like effect as upon his own certificate.*

1        SEC. 6. *And be it further enacted, That within six months*  
 2 *after the filing with the President of either of the certificates*  
 3 *mentioned in section five of this act, or if any judge of any*  
 4 *of the courts of the United States whose age now exceeds*  
 5 *seventy years, or who shall hereafter arrive at the age of sev-*  
 6 *enty years, shall for one year after the passage of this act, or*  
 7 *after arriving at the age of seventy years, continue to hold his*

8 office without filing such certificate, it shall, in either of such  
9 cases, be the duty of the President to nominate and appoint,  
10 by and with the advice and consent of the Senate, an addi-  
11 tional judge for the same court, who shall have the same  
12 power, and perform the same duties, and receive the same  
13 compensation as the judge then acting in such court, or who  
14 shall be retired and excused from so acting, and shall in con-  
15 nection with or in the absence of his senior associate, hold the  
16 courts prescribed by law for said senior or retired judge.  
17 And upon the decease of said senior, associate, or retired  
18 judge, or upon his ceasing for any cause to hold said office,  
19 the said additional judge appointed under the provisions of  
20 this act shall be and become the judge of such court.

Attest:

EDWARD McPHERSON, Clerk.

By CLINTON LLOYD, Chief Clerk.